



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,812	04/28/2006	Emmanouil Domazakis	CFAV-5	6975
52450	7590	09/18/2008		
KRIEG DEVAULT LLP ONE INDIANA SQUARE SUITE 2800 INDIANAPOLIS, IN 46204-2079			EXAMINER CHAWLA, JYOTI	
			ART UNIT	PAPER NUMBER
			1794	
			MAIL DATE	DELIVERY MODE
			09/18/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,812	Applicant(s) DOMAZAKIS, EMMANOUIL	
	Examiner JYOTI CHAWLA	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 1-4 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/28/2006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claims 1-4 are pending and examined in the application.

Information Disclosure Statement

The information disclosure statement filed April 28, 2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

Art Unit: 1794

- (l) **SEQUENCE LISTING** (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
- (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art

Art Unit: 1794

known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."

- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international

Art Unit: 1794

application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

Claim Objections

Claims 1-4 objected to because of the following informalities: Claim 1 as recited include the term "fate" in step b). It appears to be a typographical error. Correction is required.

Claim Rejections - 35 USC § 112(second paragraph)

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite for the recitation of "(1000 mbar)" in parenthesis. The term "(100 mbar) " in parenthesis renders the claim indefinite because it is unclear whether the limitation(s) recited in parenthesis are part of the claimed invention. See MPEP § 2173.05(d).

Art Unit: 1794

Similarly, Claim 2, line 2 recites "(1)" and claim 4, line 2 recites "(3)" in parenthesis, which makes it unclear whether the fermenting process products as disclosed in claim 1 or claim 3 are being claimed or something else.

Claim 3, line 2, also recites "incorporated (mixed)" in parenthesis, which renders the claim indefinite because it is unclear whether the limitation(s) recited in parenthesis are part of the claimed invention. Correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Determining the scope and contents of the prior art.

Ascertaining the differences between the prior art and the claims at issue.

Resolving the level of ordinary skill in the pertinent art.

Considering objective evidence present in the application indicating obviousness or nonobviousness.

(A) Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bloukas et al (Meat Science Vol.45, No.2, 133-144 1997) hereinafter Bloukas, in view of the combination of Domazakis (WO 02/065860) and "Sonoma sausage".

The applied reference Domazakis has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(b).

Art Unit: 1794

Regarding claims 1-2, Bloukas teaches a method for the preparation of sausage or other meat-based products, which is characterized by the incorporation of olive oil

(a) Meat is frozen at -20°C (page 134, sausage formation, paragraph 1), and frozen meat is cut and then it is mixed with salt, sugars, preservative, auxiliary salts and cultures (Page 135, paragraph 1, lines 9-10 and paragraph 2). Regarding the temperature of the frozen meat as recited at -4°C as claimed, Domazakis teaches of critical temperature for processing meat and oil based sausages includes processing at -4°C (Page 2, line 35). Further, it is noted that Bloukas teaches of cutting the meat and mixing the ingredients to the meat was done while the meat is frozen, which is also the intent of the applicant. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention that meat frozen to -20°C , as taught by Bloukas upon cutting and mixing with other ingredients as taught by Bloukas and further taught by Domazakis would fall in the temperature range recited by the applicant. One would have been motivated to keep the meat temperature low and in the freezing temperature range at least for the purpose of making the meat and spices mixture and stuffing the mixture in sausage casings under low temperatures to promote microbiological safety.

(b) Bloukas teaches of addition of oil (page 134, sausage formation, paragraph 2 and Page 135, Table 1).

Regarding the addition of feta cheese to the mixture, Bloukas is silent, however, Meat and cheese products were also known in the art at the time of the invention, e.g., cheddar Bratwurst. Sausages with feta cheese were also known as evidenced by list of sausages sold by Sonoma sausage, where chicken sausage with feta cheese was known and sold at the time the invention was made. Thus, sausage products with Feta cheese were also known in the art at the time of the invention. Therefore one of ordinary skill in the art at the time of the invention would have been motivated to modify the method taught by Bloukas and add feta cheese to the ingredients of the sausage to make the emulsion at least for the purpose of increasing variety and altering the nutritional content of the meat and olive oil based sausage products.

Art Unit: 1794

(c) and (d), Bloukas teaches of mixing till the desirable meat and fat mixture is achieved (Page 135, Paragraph 2) and the mixture is then led to stuffing machines, where it is stuffed in casings under vacuum conditions (Page 135, paragraph 2, lines 7-10).

(e) Bloukas teaches of making the products where the products are led to maturation chambers with adjustable relative humidity 95-80%, temperature of 25-20.degree. C. and air velocity 0.5-0.8 m/sec. (Page 136, Table 2). Regarding the time of stay in the maturation chamber Bloukas teaches of times and conditions as applied in the industry and recommends 30 days for standard size 47 mm diameter casing stuffed with 1-1.5 kg stuffing in hand linked sausages (Page 135, paragraph 2, lines 7-11), which falls in the recited criteria of maturation (fermentation), i.e., based on the size of the product.

(f) Bloukas teaches of dehydration or ripening in a chamber with relative humidity of 80%, temperature of 15 °C and air velocity 0.5-0.1m/sec (Page 136, Table 2 ripening), which fall within the drying conditions as recited in claim 1.

Further regarding the steps of making meat and olive oil based sausage products, Domazakis teaches a method for the preparation of sausage or other meat-based products, which is characterized by the incorporation of olive oil, and the addition of milk protein (cheese), comprising processing temperatures in the range of -4 °C to 71 °C, wherein mixing meat at a temperature of -2 °C with water at a temperature of 2°C, salt, plant fibers and breadcrumbs (i.e., vegetable proteins and starch) (Page3, lines 24-26); adding olive oil (Page3, lines 28); continuing mixing till the desirable similitude of the participating ingredients takes place (Page 2, lines 40-42), i.e., meat and fat grain is achieved. Mixing is done with simultaneous vacuum application for 5 minutes with the resulting product temperature not exceeding 4°C (Page3, lines 29-31); adding milk protein (i.e., casein containing product, such as cheese) (Page3, lines 26-36); continuing vacuum mixing until the cheese is totally dispersed throughout the resulting product (Page3, lines 26-36); conveying the resulting product to a filling machine (forming machine), where it is formed in desired shape and stored, with a simultaneous

Art Unit: 1794

vacuum application at 1000 mbar (as recited by the applicant in claim 1 step d). The product as taught by Domazakis has total treatment time during processing that depends upon the diameter of the resulting product and varying between 1 and 3 hours (Page 3, lines 31-36). Thus, the mixing at low temperatures, addition of milk protein containing compositions and application of recited pressure while stuffing the sausage casings was known in the art at the time the invention was made (Domazakis). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bloukas and mix the ingredients until the desired meat and fat grain is achieved and stuff the sausages under pressure as taught by Domazakis at least for the purpose of preparing a well stuffed sausage where the ingredients are well mixed and remain stable or unchangeable upon storage, and where the stuffing of sausage done under desired pressure in order to avoid oxidation of the product. One would have been further motivated to modify Bloukas in order to make a sausage product where the entire sausage making process is performed under conditions that the desired organoleptic characteristics and microbiological safety of the sausage product are maintained at an optimal level. Therefore, Bloukas, in view of Domazakis and as evidenced by Sonoma sausage teaches of fermenting process products with incorporated olive oil, which are produced according to claims 1-2.

(B) Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bloukas (Meat Science Vol.45, No.2, 133-144 1997), in view of the combination of Domazakis (WO 02/065860) and "Sonoma sausage" further in view of Gryczka et al (US 4147807), hereinafter Gryczka.

Bloukas, in view of the combination of, Domazakis and Sonoma sausage have been applied to claims 1-2, in the office action above.

Bloukas, in view of the combination of, Domazakis and Sonoma sausage teach the fermented sausage processing conditions as recited in claims 1-2. Claims 3 and 4 comprise of added limitation of process steps involved in making partially fermented,

Art Unit: 1794

semi-dry or dry sausages. Bloukas and Domazakis are silent as to the temperature and relative humidity conditions as recited in steps or phases (e') and (f') of claim 3.

Bloukas, however, teaches of processing conditions as air movement in the recited range of the applicant for steps (e') and (f'). Bloukas also teaches that the processing conditions followed are similar to those applied by the industry (Page 135, paragraph 2, last 3 lines). Therefore, one of ordinary skill in the art would be motivated to look to the art for process steps for making various kinds of sausages, including, fermented sausages. Regarding the process steps as recited in claim 3, Gryczka teaches of methods of making sausages including, semi-dry and dry sausages that are fermented, as instantly claimed. Gryczka teaches of sausages to a fermentation or maturation chamber where the rooms are kept at 10-26.6 °C and initial high relative humidity of above 80% , which is lowered to 65-80% to ensure that sausages dry from inside out (Column 5, lines 45-48), which fall in the recited temperature and relative humidity as recited by the applicant in phase (e') humidity 60-75%, temperature of 25-30 °C. The fermentation for dry sausage as taught by Gryczka lasts 2-10 days, which is more than 24 hours as recited. However, it is noted that the time for fermentation of a meat product, such as a sausage is at least based on the amount and concentration of fermentation culture added, fermentation conditions and the level of fermentation desired.

Regarding phase (f') Bloukas teaches the ripening conditions as discussed regarding phase (f) of claim 1, however, Bloukas is silent about heating temperature of the meat product. Gryczka teaches that in making semi dry sausage the meat products after fermentation are heated at core (internal) temperatures of 26.6-52 °C with 75-95% relative humidity, i.e., heating meat products to an internal temperatures of about 55 °C and relative humidity in the recited range was known at the time of the invention. Since the applicant has not established the criticality of specific internal temperature of 55 °C and since heating the sausage products to an internal temperatures of about 55 °C was known at the time of the invention (Gryczka), it would have been obvious to one of ordinary skill in art to use or combine Gryczka in the temperature range as claimed, because it has been held that where the general conditions of the claims are disclosed

Art Unit: 1794

in the prior art (Bloukas in view of Gryczka), it is not inventive to discover the optimum or workable range by routine experimentation. See MPEP 2144.05.

Regarding the dehydration chamber with adjustable relative humidity 80-75%, temperature of 12-17 °C and air velocity 0.5-0.1 m/sec, as recited in claim 3, phase (f'), applicant is referred to rejection of phase (f) of claim 1 by Bloukas in view of Domazakis as the same limitations are recited in phase (f).

Thus, fermentation conditions as recited by the applicant in claim 3, phases (e') and (f') were known at the time of the invention (Bloukas, Gryczka). Therefore, it would have been a matter of routine determination by one of ordinary skill in the art at the time of the invention to further modify Bloukas in view of Gryczka and apply the fermentation conditions as taught by Gryczka in order to make a fermented sausage product that is dried or semi dried after fermentation. One of ordinary skill in the art would have been motivated to modify Bloukas in order to make a fermented sausage product wherein the fermentation has been done to a desired level and then heated to stop fermentation and drying the sausage product from the inside out to make the sausage product microbiologically safe for consumption. Therefore, Bloukas in view of Domazakis and Sonoma sausage, further in view of Gryczka teaches of partial fermenting process products with incorporated olive oil, which produced according to claims 3-4.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTI CHAWLA whose telephone number is (571)272-8212. The examiner can normally be reached on 9:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1794

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JC
Examiner
Art Unit 1794

/KEITH D. HENDRICKS/

Supervisory Patent Examiner, Art Unit 1794